

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

United States of America,)	
)	
Plaintiff,)	ORDER DENYING DEFENDANT'S MOTION
vs.)	TO AMEND ORDER OF DETENTION
)	
Kenneth Todd White Lightning,)	Case No. 1:04-cr-011
)	
Defendant.)	

On Monday, May 8, 2006, the court conducted a hearing on Defendant's Motion to Amend Order of Detention. AUSA Rick Volk appeared on the government's behalf. Federal Public Defendant William Schmidt appeared on Defendant's behalf. Pretrial Services Officer Jessica Johnson and Jackie Thunderhawk, Defendant's sister, provided testimony during the hearing.

Under Rule 32.1(a)(6), Defendant bears the burden of establishing that he is neither a flight risk nor a danger to any other person or the community. However, based on the evidence presented at the hearing, the court finds that Defendant has not carried this burden and overcome the presumption that he poses a danger to any other person or the community. The basis for this finding includes Defendant's history of non-compliance with the terms and conditions of his release, his failure to participate in an aftercare program as directed following his release from Centre, Inc., his continued use of alcohol, and his continued use of a controlled substance, i.e. cocaine. Accordingly, Defendant's Motion to Amend Order of Detention (Docket No. 58) is **DENIED**.

Dated this 8th day of May, 2006.

/s/ Charles S. Miller, Jr.
Charles S. Miller, Jr.
United States Magistrate Judge